

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with ATTORNEY GLENN FOULDS on 12/14/2010.

The application has been amended as follows:

CANCEL CLAIMS 42,44,& 57-60

AMEND CLAIMS 41,54 & 61-64 as follows:

41. (Currently Amended) [[A]] **An aqueous** pesticide composition for applying to a plant, the composition consisting of:
- (a) **a phytotoxicity-inducing amount of about 0.01 % to about 15 % w/w of a phytotoxicity-inducing synthetic pesticide selected from a sodium aluminofluoride pesticide, a copper hydroxide pesticide, a chlorothalonil pesticide, and a propiconazole pesticide**; and
- (b) a pesticide-induced phytotoxicity reducing component comprising:
- (i) **about 0.1 % to about 20 % w/w of** an assimilable carbon-skeleton energy component **comprising corn syrup**;
- (ii) **about 0.0001 % to about 0.5 % w/w of** a water soluble macronutrient component **comprising N, K, Ca and Mg**;
- (iii) **about 0.00000001 % to about 0.1 % w/w of** a water soluble micronutrient component **comprising Zn, Fe and Mn**;
- (iv) **about 0.0000001 % to about 0.1 % w/w of** a vitamin/cofactor component **comprising three or more vitamin/cofactors selected from the group consisting of pyridoxine, cyanocobalamin, thiamine, pyrophosphate, riboflavin, biotin, pantothenic acid, phosphatidylcholine, inositol, para-aminobenzoic acid (PABA), nicotinic acid and folic acid**; and
- (v) [[a]] **an organosilicone** surfactant;
- wherein components (i), (ii), (iii), (iv) and (v) are present in amounts sufficient to reduce pesticide-induced phytotoxicity of the plant.

54. (Currently Amended) [[A]] **An aqueous** pesticide composition for applying to a plant, the composition consisting of:
- (a) **a phytotoxicity-inducing amount of about 0.01 % to about 15 % w/w of a phytotoxicity-inducing synthetic pesticide selected from a sodium aluminofluoride pesticide, a copper hydroxide pesticide, a chlorothalonil pesticide, and a propiconazole pesticide**; and
  - (b) a pesticide-induced phytotoxicity reducing component comprising:
    - (i) **about 0.1 % to about 20 % w/w of** an assimilable carbon-skeleton energy component **comprising corn syrup**;
    - (ii) **about 0.0001 % to about 0.5 % w/w of** a water soluble macronutrient component **comprising N, K, Ca and Mg**;
    - (iii) **about 0.00000001 % to about 0.1 % w/w of** a water soluble micronutrient component **comprising Zn, Fe and Mn**;
    - (iv) **about 0.0000001 % to about 0.1 % w/w of** a vitamin/cofactor component **comprising three or more vitamin/cofactors selected from the group consisting of pyridoxine, cyanocobalamin, thiamine, pyrophosphate, riboflavin, biotin, pantothenic acid, phosphatidylcholine, inositol, para-aminobenzoic acid (PABA), nicotinic acid and folic acid**;
    - (v) **about 0.01 % to about 30 % w/w of** a complexing agent component **comprising one or more of citric acid and fulvic acid**; and
    - (vi) [[a]] **an organosilicone** surfactant,
- wherein components (i), (ii), (iii), (iv), (v) and (vi) are present in amounts sufficient to reduce pesticide-induced phytotoxicity of the plant.

61. (Currently Amended) The pesticide composition of Claim [[58]] 54 wherein said phytotoxicity-inducing synthetic pesticide is a sodium aluminofluoride pesticide.

62. (Currently Amended) The pesticide composition of Claim [[58]] 54 wherein said phytotoxicity-inducing synthetic pesticide is a copper hydroxide pesticide.

63. (Currently Amended) The pesticide composition of Claim [[58]] 54 wherein said phytotoxicity-inducing synthetic pesticide is a chlorothalonil pesticide.

64. (Currently Amended) The pesticide composition of Claim [[58]] 54 wherein said phytotoxicity-inducing synthetic pesticide is a propiconazole pesticide.

ADD NEW CLAIMS 65-72 as follows:

65. (New) The pesticide composition of Claim 41 wherein said phytotoxicity-inducing synthetic pesticide is a sodium aluminofluoride pesticide.

66. (New) The pesticide composition of Claim 41 wherein said phytotoxicity-inducing synthetic pesticide is a copper hydroxide pesticide.

67. (New) The pesticide composition of Claim 41 wherein said phytotoxicity-inducing synthetic pesticide is a chlorothalonil pesticide.

68. (New) The pesticide composition of Claim 41 wherein said phytotoxicity-inducing synthetic pesticide is a propiconazole pesticide.

69. (New) A method comprising applying a pesticide composition according to Claim 41 to a plant.

70. (New) The method of Claim 69, wherein said method results in a reduction of the phytotoxicity of said pesticide.

71. (New) A method comprising applying a pesticide composition according to Claim 54 to a plant.

72. (New) The method of Claim 71, wherein said method results in a reduction of the phytotoxicity of said pesticide.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: amendments are now to an aqueous composition consisting of a phytotoxic pesticide and a phytotoxicity reducing component ;The phytotoxicity reducing component requiring specific ingredients and concentrations thereof. The compositions are neither suggested or evident in the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT A. WAX can be reached on 571-272-0623. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/14/2010

/ NEIL LEVY/  
Primary Examiner, Art Unit 1615

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